

Wisconsin Legislature

CONFERENCE BETWEEN THE JOINT COMMITTEE ON ASSESSMENT AND COLLECTION OF TAXES AND REPRESENTATIVES OF VARIOUS RAILROADS.

Senator Whitehead: The object of this conference this afternoon is to have the business managers of the railway companies speak with the committee and give the committee opportunity to make inquiries of them relating to the perplexing questions of taxation which are pending before this legislature. We desire this conference to be entirely informal; the gentlemen who have anything to say need not feel obliged to rise; if they have questions to ask we shall feel perfectly free to answer them.

We have had in the sessions of the legislature for years past propositions relating to railroad taxation, always relating to an increase. We have had the attorneys of the railroads present the arguments which they deemed sufficient against these bills, and the discussion has come over from one session of the legislature to another. It has been thought by the committee there was a side to this question which has not been properly discussed in the legislature, and that is the business side of it. We are very fortunate this afternoon in having here in response to our invitation the presidents of the two greatest railroads in the northwest, men who are as familiar with railway affairs as we are with the concerns that occupy us. When we come to the legislature we are brought face to face immediately with these great questions. The proposition for the taxation of railway companies involves a very large fraction of the property of the state. It involves the interests of a great many people. It involves many things pertaining to the business policy which the legislature is presumed to consider in connection with legislation that bears directly upon the business of the people. We have a great deal of legislation that relates to the customs of the people and the morals of the community and we have these questions which are economic and which are business in their aspect. The question of taxation also has its moral side as we have learned from the investigations that have been made for us by our commissioners and by the investigations which we have made for ourselves. The proposition before this legislature is perhaps sufficiently outlined in the reports of the tax

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commission which have come in two years ago and at this session. We are here this afternoon to have these gentlemen who are men of railroad affairs, give us their views from the standpoint which they occupy, and we are here to have them see, if possible, the questions which are before us, from the standpoint which we occupy. We are up to these questions, and we are here this afternoon to receive help from the men who know more about the railroad business and the railroad property than we do.

One of the main questions that we have before us is the question of a policy of taxation. We have under our constitution a general property tax. The legislature is the master of the property that will be subjected to this general property tax, and the necessities of the people are in control of the rate of taxation, for we are compelled as a legislature to provide revenues which are required for the support of our state government, and the people who pay the taxes are the people who own the property and upon whom this burden, which is imposed upon that property by the legislature, falls. Now, if we can take up these questions, these propositions, as these business men are accustomed to take up questions of perplexity and moment, as we gather around these tables this afternoon, we shall hope that we may come to a better understanding of each other and of both sides and all sides of the important question involved in the legislation of this legislature which relates to taxation.

The question of railway taxation has hitherto been separated by the policy which has been pursued, by the very nature of the bills which have been presented; and the question with us now is whether the same policy is to be continued or whether we are to come to a sufficient understanding of railway property to enable its share of taxation to be laid upon it as the shares which other properties pay are laid upon them, or whether we shall continue the policy of keeping railroad property in a class by itself and endeavoring by the rates which we fix to collect from the railway companies what the legislature deems to be their proportionate share of the taxes collected for the support of the government.

I think I have sufficiently presented the propositions which these committees have been studying here from day to day as they have met in informal session, and yet I realize that I have not sufficiently opened the way for just the sort of discussion that we look for, but gentlemen, I have done the best with it that I can and I ask these distinguished business men here to come to the assistance of these committees with all frankness and directness; if there are questions which we can answer, we shall be glad to make an answer, and if there are questions

which they can answer that we propose, we have no doubt that they are here today to give us those answers. I should think perhaps in view of the situation which confronts us that it would be well to start with the system of taxation which we have now and see if we understand each other with reference to the operation of that system and see whether in fact it produces for the state from the railway properties what is a fair share of their burden for the support of the state, and whether if we attempt to enter upon any other system there are any difficulties that are not surmountable by the legislature.

I venture to suggest that either President Earling or President Hughitt start this discussion in a general way, open up this subject from their standpoint as the presidents and agents of the owners of these vast properties, so that we may get the viewpoint which they have with reference to this question of enormous interest before the legislature of Wisconsin today.

President Marvin Hughitt (President of the Chicago & North-Western Railway): Mr. Chairman and Gentlemen: We are very glad indeed to respond to your invitation. For myself and associates, I want to thank you for the spirit in which you invited us here. Personally, I am in poor physical condition today to say anything upon any subject. In as much, however, as you have postponed this hearing once at my request, I thought I must come here, no matter if I was ill.

The question of taxation of railway property, let me say, is a very complex one, I think, but so far as the railways of Wisconsin are concerned I think there is no disposition on their part to escape or avoid paying their just share of taxes in this state. Naturally they cling with great tenacity to a system that has been so long in use in your state. If I had voted in this state I should claim to be an old citizen, but as I do not vote here, still, corporately I may claim to be an old citizen, because my connection with the North-Western railroad is something like thirty-one years. With this system of license fee which is so direct, so easy of computation, and from the railway's standpoint lays a just and equal burden upon railway property as compared with the whole property of the state, we believe it should be unchanged. That opinion might be elaborated, and doubtless will be by the representatives of other railways. I must be brief in what I have to say, because my lungs are not in condition to speak above a whisper and it is with great effort that I do so.

Whether or not the license fee, the license system, in the opinion of those gentlemen who have devoted much time to the examination of the question, does lay upon the railways

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a just burden of taxation, is one of analysis. What is a just burden? I assume, a just burden is one where all property is included in the general levy and none escapes, and under the license fee no railroad property does escape; it is all included. If you change that system and go to what is spoken of as the ad valorem system, I think you will encounter much difficulty. Fair-minded men, men who have no disposition whatever to do an injustice, find much difficulty in fairly valuing the property, especially of railways so widely extended and covering so many states as do the railways that are involved in the North-Western companies. To arrive at a proper valuation of the railway on that basis is difficult. I know much has been said about the stock and bond theories, but in that we do not believe. If you go to other systems than the license fee you must value the property locally in the state. How is that to be done? Certainly you would not go outside of the domain of the commonwealth to value the property in other states, of the corporation, for taxation within this state, therefore it has seemed to me there was but one way to value the property in such a system, and that was, to examine it by experts and determine what it is worth on that system; and there is much difficulty in that direction. But I am admonished, Mr. Chairman, that I must be brief. The railways are here I understand, in the spirit, just as you have suggested, of conference, to find out what is to be done in view of the agitation from session to session, of this question. The railways would like to have it disposed of,—as a question not to occupy public attention and agitate the legislature from session to session, but in the change, we suggest, if a change is decided upon, or if you favor a change, that you take into serious consideration the difficulties of the abandonment of your present system. They are very great, and I apprehend would not work out as successfully as your present system. I thank you very much, Mr. Chairman; I have spoken very feebly and not as I would wish to do on the subject, but I have done the best I could in the physical condition in which I find myself.

Senator Whitehead: Mr. Hughitt is quite ill, but I suppose if any member of the committee should address any direct, pertinent inquiries to him he would be able to give an answer, and would not be obliged to rise.

Senator O'Neil: In some states through which your railroad property runs, are you taxed on the ad valorem system?

Mr. Hughit: In Illinois, yes, sir.

Senator O'Neill: Is the tax more burdensome there than it is in Wisconsin?

Mr. Hughitt: No, sir, it is not.

Senator Whitehead: What is the experience in Iowa, Mr. Hughitt, of your company?

Mr. Hughitt: Well, it is the ad valorem system there. The tax, Mr. Chairman, in Wisconsin is much higher than in other states where the North-Western railway operates its lines; there is a much higher percentage on the gross or net earnings, it is much higher here than the tax paid in other states on the other system?

Senator O'Neil: What states do you operate in where they have the ad valorem?

Mr. Hughitt: In Wyoming, South Dakota, Nebraska, Iowa, Illinois and Michigan. The percentage in Minnesota on the gross earnings is three per cent, and Michigan changed its law from four per cent on gross earnings to a tax on the ad valorem system.

Mr. Smalley: In those state that you are taxed under the ad valorem system have you experienced any great difficulty in arriving at the valuation of your property?

Mr. Hughitt: That might best, I think, be illustrated by what recently occurred in the state of Michigan. We are paying 4 per cent tax in the state of Michigan on gross earnings and they changed their law to the ad valorem system, valuation by a commission, and we have not as yet accepted as conclusive the findings of the commission under the law. It has resulted in a very excessive valuation of the North-Western property in that state. We have, I think, about 515 miles of railway in that state, that is in the northern peninsula of Michigan, and about half of it lies under the snow six months in a year, is not operated, there are lumbering branches, spur tracks to iron ore mines and that sort of things only in use during the season of navigation, and by some line of reasoning which we have not as yet ascertained they have made the valuation of our property there about \$28,000 a mile, very much higher per mile than is some of the railways of the trunk line roads. Just how that is reached we do not know. It is a matter that is being very closely inquired into by the law department of the company.

Senator Whitehead: Do you have any state where you operate subject to the assessment by the local assessor?

Mr. Hughitt: No, sir, the properties are valued in their entirety. I do not know how you can segregate a railroad by townships and counties and value it. The railroad from La Crosse to Madison is worth so much to carry freights and passengers over,—you would not set apart that section of the line which some of you gentlemen travel over which we call the

"tunnel section," as having any greater value for the purposes of transportation than a piece of road in the open country. It cost a great deal of money to dig those holes through those hills, but we do not get any more for carrying passengers through those tunnels or hauling freight over it.

Senator Whitehead: Mr. Earling, perhaps you will come to Mr. Huggett's relief for a little while; he is feeling pretty badly.

Mr. Earling (President of C., M. & St. P. Ry.): Mr. Chairman and Gentlemen: I desire, first, to thank you for this invitation you have extended to us, and first of all to say that the railroads,—speaking for the St. Paul road and for some others, are perfectly willing at all times to pay their just share of the taxes in the state of Wisconsin. I do not know of a railway company that would feel more kindly disposed to the state of Wisconsin than the Milwaukee & St. Paul, because it is a company which is organized under the laws of Wisconsin, and has its home in Wisconsin. I believe, however, that the taxes paid by the railways in Wisconsin are more than they should pay, and have been ever since the 4 per cent license fee has been in existence. The railways of Wisconsin, as I understand it, paid last year about one-eleventh of all the taxes that were paid in the state, state, county, school and municipal, and I cannot believe that they own one-eleventh of all the taxable property in the state of Wisconsin. I will refer particularly to one county and that is Milwaukee county, in which the railroads own more property in proportion to the wealth of that county than they do in any other county in the state, yet I think no man who is familiar with that county would say that they own one-eleventh of all the taxable property, of all the value of that county. It does not seem possible that it could be so. Therefore my conclusion must naturally be that the roads are paying under this four per cent license fee more than their just share.

In regard to the license fee itself, it is, as you know, changeable. It depends, the amount to be paid in the way of taxes by the railroads, depends upon the business conditions; whenever the earnings are large the amount of taxes to be paid are also large; when during times of depression the earnings are small, the taxes diminish in the same proportion. It seems to me and always has seemed to me since this question first arose that the license fee system is the simplest way for the railroads to pay their taxes into the state, because there are no complications whatever in arriving at the values, which is always a difficult problem; it is simply four per cent upon the gross earnings and the computation is easily made. A clerk can make it.

There is no opportunity whatever for the railroads under that system to escape taxation or to conceal any of their property or omit it. Under the ad valorem system it is quite difficult, it is full of complications. We have an experience in other states. In Illinois, Iowa and South Dakota it requires a great deal of work on the part of the state, and expense, as well as upon the railroads; involves a great deal of expense which is entirely avoided under this license fee which you have in Wisconsin, and the four per cent which is paid by the railways amounting to—it will amount this year to probably \$1,800,000, which, I believe, firmly believe, represents more than the fair share that the railroads should pay. I thank, you, gentlemen, for your attention.

Senator Whitehead: What sort of burden does it lay on the company in the states where you have the ad valorem system, Mr. Earling?

Mr. Earling: It requires a great deal of clerical force in order to apportion, first, the property which belongs to the various states; for instance, in the matter of rolling stock, it is somewhat difficult to estimate what percentage of the rolling stock belongs to this state or that state, because this is a system,—for instance, the St. Paul road traverses six states,—and first to ascertain what proportion of that equipment, rolling stock, belongs to the state of Wisconsin and what belongs to Iowa,—that fact itself is a matter which is extremely difficult to determine and one with which the board of assessment is seldom satisfied.

Senator Whitehead: After it is ascertained once as it is in Iowa, is it a matter of added difficulty, every year? Do you have to go over the same matter every year?

Mr. Earling: It changes from year to year, Senator, as the equipment changes. The equipment is taken down and the number of cars, the number of locomotives and the number of passenger cars and all those things change each year; then there is also a clerical force that is required to assess each division of the road within the state. I think Mr. Dudley, tax commissioner of the company, could explain that to much better satisfaction to you than I can. He is thoroughly familiar with it.

Senator Whitehead: Do you notice a gradual increase every year in the assessment of the property of the company in the state?

Mr. Earling: There has been an increase during the past few years because the roads have increased their equipment, the number of cars, the number of locomotives have been largely in-

creased, and the track,—additional tracks have been constructed and more buildings. New buildings have been constructed, and additional buildings, and thus additional facilities of all kinds have been provided during the past few years.

Senator Whitehead: Do you find it your experience that the increase is recognized by the state board of assessment in a legitimate way, due to the legitimate growth of the company in its business?

Mr. Earling: Thus far we have no fault to find in that direction except in the state of Michigan, which has just this year entered upon the ad valorem plan of taxing the railroads.

Senator Whitehead: You have no standard there to go by except this single assessment?

Mr. Earling: This single, yes, the first one in that state. We had it of course in Illinois, Iowa and South Dakota, and in Minnesota as Mr. Hughitt has stated, it is on the basis of a license fee, three per cent upon the gross earnings.

Mr. Smalley: Aside from the fact that there is some difficulty in arriving at this on the ad valorem basis, do you not think that if property was assessed on the ad valorem basis it would relieve the legislatures of the different states of a great deal of anxiety every year, as to whether or not railroad companies were assessed at what they ought to be, that that would establish it more permanently, so that it would not be an agitation all the time?

Mr. Earling: Well, it would be pretty difficult to answer that question. I do not know how the people would feel about it; I can only say this, I can only repeat the fact that the four per cent which the state of Wisconsin is now receiving upon the gross earnings represents its full and more than its full share of the taxes that the railroads are paying; therefore, I do not see very much cause for agitation of the question.

Mr. Smalley: Yes, but nevertheless there is all the time and has been and probably will be; now, don't you think that a system like that—I am just getting at your opinion whether or not you think that that would better matters. Don't you think the people would be more liable then to know or think that they know at least, that the rate of taxes of railroad property is on an equivalent with other property?

Mr. Earling: No, I do not, for the very simple reason that, strange as it may seem, there are comparatively few people, men who really know what the railroads of Wisconsin are paying, what taxes are being paid by railroads; indeed, from very intelligent business men I have heard it said that the railroads probably do not pay more than ten dollars per mile in

the way of taxes on their roads in Wisconsin, when, as a matter of fact, it amounts to about three hundred and twenty dollars per mile for the St. Paul road.

Senator Hatten: What is your estimate of the value of a mile on which you pay \$320?

Mr. Earling: You desire to know what I think it would cost to replace it?

Senator Hatten: You made the statement you thought they were paying more than their share; you must base it on the value put upon the property and the rate they paid or amount they paid. What do you consider a mile of the Milwaukee & St. Paul road worth on which they paid \$320?

Mr. Earling: I consider the value of the mile of road at the amount for which it is capitalized, as it stands upon the books of the company, which is the average of the entire system. I must go into the entire system again because it stands on the books as a system. It is about \$34,000 a mile. When I say I believe four per cent upon the gross earnings represents the full measure of taxes that the railroad should pay and even more than that, I base it upon this: that it represents one-eleventh of all the taxes that are paid, and I cannot believe that the railroads of the state of Wisconsin own one-eleventh of all the property in the state.

Senator Hatten: When you estimate the value of the property in the state, do you estimate all the property of the state?

Mr. Earling: All the property.

Senator Hatten: All of the property whether on the assessment rolls or not?

Mr. Earling: All the property in the state.

Tax Commissioner Gilson: That is, exempt and non-exempt?

Mr. Earling: No.

Tax Commissioner Gilson: Simply the taxable property?

Mr. Earling: Taxable property.

Tax Commissioner Gilson: The dispute arises as to whether or not four per cent is a just tax in proportion to the taxes paid by other property and the controversy arises. How shall that controversy be decided, by the committee of the legislature or by some other authority?

Mr. Earling: I think that is a question which should be decided upon the facts as to whether the railroads are not really paying their just share. That is the question that is before us now, as I understand it.

Mr. Dahl: Has there been much difficulty in the states where they have the ad valorem taxation, in arriving—as between the

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railroad companies and the state—in arriving at a just basis of taxation, just valuation at the time that the law was passed?

Mr. Earling: Is there any difficulty?

Mr. Dahl: If there had been much difficulty at the time the law was passed in arriving at that?

Mr. Earling: There is more or less difficulty all the time for reasons I stated a moment ago, there are questions arising as to whether more of the rolling stock, for instance, should not be credited to the Iowa lines or Illinois lines or South Dakota lines. Those are always questions which will naturally arise.

Mr. Smalley: It is your opinion then is it, if the legislature was to change the method of taxation of railroads in Wisconsin from the license fee system to the ad valorem system, that the railways of Wisconsin would pay less taxes to the state than they now pay under license fee system?

Mr. Earling: I do not know that that would make any particular difference. If the license fee system is fairly administered and the ad valorem system is fairly administered it ought to make no difference at all in the amount that the railways pay as compared to other property. That depends entirely upon the administration of the system.

Senator Whitehead: The tax now levied under percentage is perfectly arbitrary, isn't it?

Mr. Earling: It is.

Senator Whitehead: There is no test of the sufficiency of it or equality of it?

Mr. Smalley: I gather from your remarks you thought the railway companies in this state were paying more than their just share of the taxes at the present time?

Mr. Earling: I do think so for the reason that, as I stated a moment ago, I can not believe that the railroads own one-eleventh of all the taxable property of the state of Wisconsin, considering the real estate, improvements, manufacturing establishments of all kinds that you have in the state, and personal property, it does not seem to me that it is possible for the railroads to represent one-eleventh of that total, and it is for that reason that I believe the railroads are paying under a four per cent license fee more than their just share.

Mr. Smalley: Well, then, it would naturally follow, of course, if the system was changed to the ad valorem system that you would pay possibly a less tax than you now pay?

Mr. Earling: There is great difficulty in arriving at the value of a railroad. It is not confined to one state, it traverses many states and it takes the whole of it to complete the system, therefore it is difficult to arrive at a just valuation.

Senator Whitehead: Well, the point that you stated that you believed that the company is paying its share and perhaps more, on the ground that you do not own the proportionate value of the property of the state which the tax would indicate, is the very basis of the controversy that is going on in the public mind.

Mr. Earling: Certainly.

Senator Whitehead: Would you suggest any test, anything that would settle that question authoritatively? What sort of a test if we retain the percentage system can we engraft onto that system to settle the public mind on that proposition, a test that will work automatically?

Mr. Earling: I have not given the subject sufficient consideration, Senator, to express any views upon it at this time. It is a large question. I realize it, and it is one that would require a great deal of thought and a great deal of investigation.

Senator Whitehead: Would you regard it a fair proposition to present, that a test be established of some sort that would settle the question and take it out of the field of agitation?

Mr. Earling: For one I should like to see this question settled,—very naturally, if it can be settled in a just and fair way to all interests. If the railroads—speaking for the St. Paul road—are not paying their just share of the taxes of the state, we desire to do so. We do not wish to escape our just share.

Senator Hatten: Do you think the railroads pay more than their share considering only the assessed value of the property?

Mr. Earling: No, I do not mean to convey that.

Senator Hatten: But do you think that considering only the assessed value of the property, do you think they pay more than their share?

Mr. Early: No,—not according to the report of the tax commission that would not be so.

Tax Commissioner Gilson: I do not think you understand the question. The figures of the Tax Commission are not based on the assessed valuation, but on the true valuation so far as it could be obtained, on the average, running back for instance seven years; and if the railroad property is to be assessed to bring it with other property, and the per cent is just what the railroads are willing to say that their property should be taxed, on the same basis of other property, then the same method relatively, so far as possible, should be applied to the valuation of both pieces, thereby to bring it on the same equality?

Mr. Earling: That is perfectly fair.

Tax Commissioner Gilson: Then, if we take seven years in

ascertaining the value of property in the state, the railroad property should be valued on a seven-year basis?

Mr. Earling: No, I should have to take exception to that, Judge Gilson, because a seven-year period does not represent the period of very hard times, the depressed times. Those were in '93, '94, and '95, and up to,—well, up into '96, when the earnings were very small, had been very much reduced and of course the taxes that were paid were also reduced, suffered correspondingly. Therefore a seven-year period would hardly be fair. Other property did not suffer to the same extent that transportation companies did during the period of depression, therefore a seven-year period, it would seem to me, would be manifestly unfair to the railroads.

Senator Hatten: The last seven years?

Mr. Earling: Yes.

Senator Hatten: Seven years including three years of depression?

Tax Commissioner Gilson: That would be a matter of detail whether sufficient time should be taken so the average value of the railroads could be obtained and the average of all the property in the state could be obtained—would that be a proper subject of investigation and decision by a competent tribunal, do you think?

Mr. Earling: I think any plan which will throw light upon this subject would be a fair one. Any plan whatever.

Senator Whitehead: What would be the difference in expense and trouble to the railway companies if the state were to prescribe some sort of a test of the percentage system to determine whether it were fair, compared with going immediately and fairly and squarely onto the ad valorem basis of taxation?

Mr. Earling: I cannot answer that question off-hand, I do not think, but Mr. Peck may be more familiar with that than I am. You can give him information on that subject (addressing Mr. Peck).

Mr. Peck: Perhaps, Senator Whitehead, you can make it more plain. You propose a test to determine whether the percentage basis is a just one?

Senator Whitehead: Yes, sir.

Mr. Peck: Then wouldn't you have to have two systems at the same time to compare? I never heard it suggested before today. Would you pass a law that they might pay four per cent or they might be assessed by the ad valorem system and see which—

Senator Whitehead: No, I did not mean just that.

Mr. Peck: How can you have a test without a test comparison?

Senator Whitehead: The proposition of Mr. Earling is, the railroads pay their share and more. There is a feeling in the public mind I judge from what I hear, that this is not recognized as true, so here is a controversy and the legislature is called upon to furnish some sort of solution. Certainly it is to the interest of the railroads to have this controversy ended. Mr. Earling recommends that. Now, what kind of a test are we going to suggest as to the sufficiency of the percentage system if we keep it? Are we going to guess at it, fix an arbitrary rate?

Mr. Peck: It is pretty easily worked out by the figures that are now public, that we are paying more than we ought to.

Senator Whitehead: That is not recognized in the statute in any way as a test.

Mr. Peck: Why not? Suppose it were possible to take the figures, the public figures of the state of Wisconsin, the tax commissioners' reports and other public records of the property, suppose it were possible to take the census reports and show that if all the property of this state were taxed we are paying a great deal more than our share, would that be a test? A test easily made, and if it is, I will undertake to make it.

Senator Whitehead: Who is going to make this examination and make the finding?

Mr. Peck: A clerk can make it because it is public and accessible.

Tax Commissioner Gilson: Wouldn't be any trouble with the state board making it?

Mr. Peck: Certainly not, but the state board, Judge,—you don't claim did make it, do you? You have made a very admirable report, I don't criticise you, but a whole lot of property got away from you, didn't it? Didn't you report that it was impossible under any system ever devised, for all the property to be caught and taxed? But, under your proposed ad valorem system of railroads, it will be taxed at its full value and perhaps more.

Senator Hatten: That is, railroad property?

Mr. Peck: Railroad property, yes; that is the inherent difficulty of the situation. When you find the value of the railroads of any of the different theories, you have got a cash value; but when you send a man in the state, human judgment is fallible,—you don't get it all and you don't tax it all at its full value when you do get it; and the tax commission have borne evidence to that in all their reports that I have seen, including this last.

Tax Commissioner Curtis: You mean, Mr. Peck, that something less than all the taxable property is assessed?

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Mr. Peck: Yes.

Tax Commissioner Curtis: And always will be?

Mr. Peck: Undoubtedly. Mr. Dudley, who was giving me some figures on neat cattle, sheep and swine. Very hard to get for the assessor, hard to find even if he has eyes that are trying to find, but the census returns show them because they are not going to be taxed under that. Now, you have got those figures, Mr. Dudley.

Tax Commissioner Gilson: Do you want to give any figures today?

Mr. Peck: No, I don't. I was asked how we could make a test.

Tax Commissioner Gilson: Who shall settle the question when the figures are presented, who shall determine what they mean and what results would be achieved?

Mr. Peck: The legislature is supreme in this matter under the constitution. It is a legislative matter undoubtedly.

Mr. Dahl: Under the ad valorem system of taxation, Mr. Peck, don't you think that there would be some railroad property that might possibly escape taxation, as well as there would be a cow or a calf, something like that, on a farm?

Mr. Peck: No, I don't think so.

Mr. Dahl: You think it would be assessed better than farm property?

Mr. Peck: Yes.

Mr. Dahl: What reason have you for thinking so?

Mr. Peck: Because I assume that you will assess a railroad as a unit, in the first place, including the whole of it. I think you ought at least to consider a good many different elements. I do not believe in the stock and bond theory, so called, the market value, although I concede that it has been recognized not only by taxing boards but to some extent by the courts. I do not think it is a correct system, but it certainly gets all of the property—all of it. It is assessed as a unit; every crow-bar, every pick and shovel, every hand-car is included in the in the value of this unit which you are going to tax. You are going to tax the St. Paul road so much to the state of Wisconsin, and at its actual value. You are not going to throw off something because of friendly relations, anything of that sort, as they do in these local assessments.

Mr. Dahl: You think the local assessors throw off a little?

Mr. Peck: Well, the Tax Commission report they do. The Tax Commission took the assessed value and the consideration in a certain number of deeds, under the law of this state, which required registers of deeds to report conveyances so comparison

could be made, and it showed a very marked difference. I don't remember the percentage, Mr. Gilson, but you do,—I have read it, you included that in one of your methods of ascertaining the actual value, and you had to put the actual value way up above the assessed value, and that shows the system is faulty, because the assessed value should be the actual value; and the report of the Tax Commission shows how much percentage—

Tax Commissioner Gilson: I think for 1901 about 40 per cent, 40 to 45,—we should make it over that, but that would be fair. It is less now.

Mr. Peck—It is less now, thanks, I think very largely to the efforts of the Tax Commission. The assessed value comes more near to the approximation of the actual value than it used to, but the difference between the assessed value today and the actual value is a very large percentage, and would run up probably into the millions,—yes, I know it would, more than millions,—a great many millions. So there is one of your troubles that you have got to start with, and you have got to decide whether you will have railway property assessed at its actual value, at its market value, at the market value of its stocks and bonds for a period of years, and assess other property at the valuation that may be placed upon it by the citizens, by the people, and a good deal of it escaping entirely, I mean personal property. And that is a difficulty that is almost insuperable in this problem you have to solve. It is a very great one.

Tax Commissioner Curtis: Then is it your idea the legislature should simply keep on guessing as to what is the just share of the railroad companies?

Mr. Peck: If the legislature will simply keep on guessing and get all the assistance they can in making their guess I think they will come nearer justice than any ad valorem system that is applied to them all at the same time. You are guessing a good deal nearer than you did a few years ago, since 1900. It is a good many years since the legislature made a guess, but somebody guessed the value of property of this state when they doubled it.

Tax Commissioner Curtis: I am speaking of guessing for the purposes of fixing your rates for taxation?

Mr. Peck: I think the rate should be such a rate as will produce a corresponding amount on a valuation of the railroad property, and you have reached that and gone beyond it for years, for a good many years.

Tax Commissioner Curtis: The last part of your proposition is the one which is in controversy. How can it be settled,

that is one of the questions for this conference, I think, how can that controversy be settled?

Mr. Peck: I know it is and I wish I were wise enough to settle it. I ought not to be talking here, Mr. Curtis; it is not for me. I have got drawn in by the Judge and Mr. Earling. I do not seek to spring any arguments at all. I am merely trying to put a point upon the conference. I feel that I am an interloper when I am discussing these questions; it should be Mr. Earling and Mr. Hewitt and Mr. Upham, and these gentlemen who are presidents or executive officers of the railway companies, and the committee.

Tax Commissioner Gilson: And the committee.

Mr. Peck: Well, the committee asked them to come. They haven't any right to call on the committee.

Senator Whitehead: There must be some policy of ad valorem taxation that we should have to embody in a bill, and I think it would be timely, Judge Gilson, if you were to suggest what you think would be the main propositions of an ad valorem bill which might come before this legislature if we were to take up that line of legislation. I don't mean the particular machinery of it, but I mean the general policy that should be pursued in establishing such a system. You have given the matter such thought as would enable you, I think, to give assistance to the legislature in framing such a bill, and if you would state briefly what you apprehend to be the business features of such a bill I should like to hear what Mr. Hughtt or Mr. Earling or these other gentlemen might offer in regard to it.

Senator Hatten: President Earling, you said a while ago \$34,000 a mile was what the Milwaukee & St. Paul road was stocked for. Do you consider that a fair cash value or assessment value of the property? What do you consider a fair cash value of an average mile of the Milwaukee & St. Paul?

Mr. Earling: I consider the fair cash value of the property just what it cost, what it stands on the books at which I said was about \$34,000 a mile. In the abstract I should say that that is the fair cash value.

Senator Hatten: But suppose a man bought a farm and paid \$4,000 for it and the assessor came to him five years afterwards to assess it and the farmer exhibited a deed and said, "That is the book value—that is what it cost me," do you think the assessor ought to be governed by that, or by the value of the farm at the time of the assessment?

Mr. Earling: It should be assessed at its value at the time the assessment is made, certainly.

Senator Hatten: Then the Milwaukee & St. Paul road book

value should not be considered any more than the value expressed in the deed, should it?

Mr. Earling: For assessing purposes it should be assessed at perhaps what it would cost to reproduce it. That all depends upon the plan upon which you propose to make the assessment. If you propose to assess railroads upon exactly the same plan that other property is assessed at then it should be upon the value of the property as it stands, and of the railroad, that value probably may be ascertained by the cost of its reproduction. There are many ways, but whether any of these would be fair I am not prepared to say.

Senator Hatten: Do you think the Milwaukee & St. Paul road in Wisconsin could be purchased for \$34,000 a mile?

Mr. Earling: I don't know whether it could or not. I don't think there is any one who could answer that question.

Senator Johnson: It is claimed that the state is at the mercy of the corporations under the license fee system. Is it very difficult to state or find out what that is?

Mr. Earling: No, sir, it is not so difficult; the earnings are made up by the auditor of the company on the basis which has been established by the various states and by the interstate commerce commission, which is a mileage basis. All the earnings, for instance, on traffic originating and terminating within the state, credited to Wisconsin lines, all of the interstate traffic is credited to the Wisconsin line upon the mileage basis and that statement is prepared at the end of each year and the amount is then transmitted to the state authorities and the taxes are paid upon that amount.

Senator Johnson: Then there is no occasion for any guess work?

Mr. Earling: Absolutely none. Furthermore, the state has authority to make an examination of the books of the railroad and it did so some—how long ago was that, Mr. Hughitt?

Mr. Hughitt: Well, there was a legislative inquiry some two years ago, I think; was there not, Mr. Chairman?

Mr. Earling: Four years ago; such examination was made upon the books of the company and it was found to be correct. I wish to remark right here, I do not believe there is an officer of any railroad company who would undertake to falsify the reports. He has to make them under oath to the states and to the stockholders and to the interstate commerce commission, and the accounts and books are open to the investigation of the state authorities at any and all times.

Senator Johnson: Then, there is another argument that is used against the license fee system, and that is that under the

license fee system the railroads are very indifferent as to the expenses, indifferent whether the state is extravagant or not, that their taxes are fixed under the gross earnings and they are less interested in promoting economy in the affairs of these states. How is that?

Mr. Earling: Well, that may be so. But there is this to be said that the railroads have always deemed it to be perfectly safe to leave that question with the legislature; that the legislature of this state will always see to it that there is no extravagance.

Senator Johnson: Well, then, they don't take so much part in politics as the ordinary good citizen. They seem to forget good legislation by the reason that you are not interested, that is, personally?

Mr. Earling: In fact, I might say the St. Paul road takes very little part in politics.

Senator Johnson: That is one of the arguments that they use against this system.

Mr. Hughitt: Pardon me, but I didn't understand you.

Mr. Peck: We have been told many times we hadn't any right to take any interest in politics.

Mr. Hughitt: I did not understand your question.

Senator Johnson: I said one of the arguments against the license fee system was, it is claimed that the railroads, their taxes being fixed, are indifferent as to the disbursements of the state, and they take less interest in looking after the economical management of the state than other corporations do.

Mr. Hughitt: They are hardly citizens in that respect.

Senator Johnson: Well, corporations?

Mr. Hughitt: I don't know how we could influence the matter one way or the other as a corporate taxpayer.

Senator Johnson: If we changed to the ad valorem system, wouldn't you be more interested then?

Mr. Hughitt: I think under the ad valorem system possibly; our principal concern would be about the property being valued on some different basis than some other property, or all the property in the state, because of its being valued in its entirety. You cannot segregate it. You cannot take a mile of railway in Sauk county and compare it with a mile of railway in some other county. You have got to value the whole property.

Mr. Earling: In answer to your question, Senator Johnson, more directly: in states where the St. Paul road, for instance, is assessed upon the ad valorem plan, it takes no more interest in the expenditures, it has no more to say and does

not presume to say any more with the regard to the expenditures of the state than it does in the state of Wisconsin.

Senator Johnson: No, but your taxes rise and fall according to economy and extravagance.

Mr. Earling: That is true.

Senator Whitehead: Is it your experience Mr. Hughitt, that they proceed along about the same lines in the different states under the ad valorem laws, where they have the ad valorem system of taxation, or does each state have its own principle?

Mr. Hughitt: Mr. Chairman, the practice is almost uniform. There is no stock and bond theory applied, as I understand it in arriving at the value of the properties in the states where the ad valorem system prevails. Now, specifically, and I think the tax commission speak of it in their report—at least they are very well informed upon the subject as to what is required—there is an absolute schedule of all the property, railway property, in the state; each particular mile of railway reduced down to townships, is described. All station buildings and side-tracks and everything that pertains to the paraphernalia, or the make-up of a railway with the instrumentalities of transportation; then it comes the rolling stock, so many passenger cars and freight cars, and cars of every kind, and movable property of that character, is apportioned between the states in arriving at the taxable property and the value of it. Taxable property of that nature. After that method you have the railway property for assessment under the ad valorem system. Now, if you lengthen a side-track, if you build an additional mile of main track or double track, you put a new tool in a shop, you buy a new desk, you increase it.

Senator Whitehead: Does it practically come down to just the physical property?

Mr. Hughitt: The physical property with the mileage apportionment of the movable property.

Mr. Dahl: Then the rate is arrived at by taking an average with the value of railroad property and the value of state property, is it? and the rate is arrived at in that way, or how do they arrive at the rate?

Mr. Hughitt: As I understand it, the property is valued as a whole and then the central authority, the state authority, apportions that to the various counties and townships on the main track and mileage.

Mr. Dahl: I guess I did not make myself understood. I mean, how does the state get at the rate that they charge you on the rate of taxation after the property is valued, Mr. Hughitt?

Mr. Hughitt: Why, it is a local tax. Each locality takes the value, as I understand it, of the property and apportions it on the mileage basis.

Mr. Dahl: I do not know how they can get at that.

Mr. Hughitt: Each locality has the portion of the whole based on its mileage.

Mr. Dahl: And the taxes are paid in then in each locality?

Mr. Hughitt: Yes, surely.

Mr. Dahl: And not to the state?

Mr. Hughitt: Surely.

Tax Commissioner Haugen: This apportionment is made for the purpose of getting at the local rate of taxation, is it not?

Mr. Hughitt: This system under which the taxes are paid, but in order to have the local rate applied to that part of the property it is within the local precinct for taxation.

Mr. Dahl: Do they pay any state tax then whatever?

Mr. Hughitt: All the taxes the railway pays goes into each local treasury or local taxing district.

Tax Commissioner Gilson: But that is the total tax?

Mr. Hughitt: Yes, the total tax.

Tax Commissioner Gilson: State, county and local.

Mr. Hughitt: Yes, that is the total tax. The state does not take any out.

Tax Commissioner Gilson: Except as it is returned as a part of the general state tax, with other property.

Mr. Hughitt: Yes, but the value, as I understand the system, is arrived at in the method I have described.

Mr. Dahl: And that is common in both Michigan and in Iowa?

Mr. Hughitt: Michigan has just started; they have not fairly got started, but it is the law in Michigan.

Mr. Dahl: They apply it in all the states except Minnesota, and Wisconsin and the rate is got at in that way in all those states?

Mr. Bowers: I think this is not entirely fair. The system in Illinois, Iowa and the other states differs from the Wisconsin system in that we under that license system, all the taxes derived from the railroads goes exclusively into the state treasury, not so in Illinois, Iowa and some other states,—there after the railroad has been valued as a whole the total assessment put upon it is apportioned to the different municipalities along the line in the proportion of the main track mileage, and the part, therefore, of the railroad assessment that is so apportioned to a particular community is used then locally by the application of the local rates, for the benefit of the local treasury, so

that that part of the assessment is subjected to the local rates and the larger part of the tax derived from the railways goes into the treasury. Then of course, also, the ordinary state rate would not apply to all these fragmentary parts of the assessment for the benefit of the state tax, but it results, instead of getting all the railroad tax into the state treasury of Wisconsin, it is only a small fraction of it that goes into the state treasury.

Tax Commissioner Haugen: It goes into the state treasury in the same ratio the other taxes go into the state treasury.

Mr. Bowers: Yes, that the other property, but that is a minor portion of the tax.

Mr. Dahl: That system has been in vogue in Iowa for several years, has it not, or how long about?

Mr. Bowers—Oh, indefinitely,—thirty.

Senator Whitehead: Judge Gilson, would an ad valorem tax bill contain any specific rule for the measurement of the property?

Tax Commissioner Gilson: Well, that, of course, would not contain any specific rule for the valuation unless in the act of the legislature some specific direction was given for the valuation. If the property was to be valued by a state board the same board should be authorized to make a valuation of the general property of the state, so that the railroad property and the general property—and when I speak of general property I mean all property appearing upon the tax roll—should be valued on the same basis, that is, that the entire taxable property of the state should be ascertained and determined and equalized as near as practicable according to the best judgment of any board that was authorized to perform that duty. The local taxes of the state, both state, county and local, should be ascertained. The value of the railroad property should also be ascertained upon the same basis, that is, unless there is specific direction given in the legislative act as to the particular valuation, then it should be made so as to reach the true value of the property, not by the stock and bond theory, although that should be an evidence to be considered with others. The earnings of the company should also be considered and all other facts which would shed any light upon the valuation and in a just system of ad valorem taxation by a state board. The railway company should be entitled to be heard, not only as to the valuation of their own property, but any facts or statistics or proof that they might have in regard to any other property of the state should also be presented to that board, so that they would be in position to determine both the value of the general property and the value of the railroad property.

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Mr. Baldwin: Would you abolish local assessment entirely?

Judge Gilson: No, we could not do that, but we would not be governed by the local assessment; it would be necessary to adopt better methods.

Mr. Baldwin: On what assessment would the city taxes, township taxes, etc., be computed on your assessment or the local assessment?

Tax Commissioner Gilson: On the local assessment; but we would not propose after the valuation of railways is made that that should be assigned to local subdivisions for taxation, but that the entire property shall be valued and the taxes paid into the state treasury in like manner and like times that the railway license fee now is.

Tax Commissioner Haugen: They would pay nothing locally.

Judge Gilson: Pay nothing locally, and would not pay taxes at the local rate but at the average rate of taxation throughout the state. And the question as to whether the average rate which was arrived at by the board on their preliminary investigation—the railroad company should be entitled to be heard on that question as well as on the question of their valuation and the valuation of the entire property of the state.

Senator Whitehead: Then, Judge, this state board of assessment would not be hampered by the state any more than a local assessor is in getting at the valuation?

Judge Gilson: Not unless it was considered advisable by the legislature to place restrictions upon their power or to provide that certain definite methods of valuation shall be followed.

Senator Whitehead: I mean, if the theory on which the local assessors proceed is to be the theory on which the valuations of railway property should be made, the legislature would not put any restriction in the statute, would it?

Judge Gilson: It would depend on how much confidence they had in the board, I suppose, that was created. If they had a competent board to make the assessment so as to do justice between all classes of property, perhaps the restrictions ought not to be too closely defined. For instance, one question as to the determination of the value of railways in this state, whether or not if their value as a whole should be considered, whether or not the value in this state shall be assigned on a mileage basis, might be an open question, whether or not that would be a just definition of their entire value or whether the board might consider as to whether certain portions of the railway lines in this state would be worth less or more than the entire system.

T. H. Gill: Would there be any method of reviewing the decision of the board of assessment?

Judge Gilson: There could be a mode provided for review by the supreme court, I presume, or perhaps resort to the local courts first, but the review perhaps would be conditioned upon a payment of a certain portion of the tax.

Mr. Gill: Estimated at what was equitable?

Judge Gilson: Yes, or if it was considered advisable by the legislature to make a change to the ad valorem,—from the licensee fee system to the ad valorem system, this method perhaps might be adopted, that during the process in which the adjustment was being made, the present license fee system might be continued, allowing payments to be made as they are now, and then the valuation by the state board say for two or three years; and if the assessment by the state board and the extension of the tax should show that the railway companies were paying less than they ought, then they should be assessed for the residue; that is, if the taxes amounted to more than a license fee paid by them, then the taxes could be extended for the excess, or, if they were paying more under the license fee than they ought to pay, the state could refund the amount due them.

Mr. Peck: That affords the test Mr. Whitehead asked me for when he asked me what I would suggest for a test.

Judge Gilson: That would afford a test, I think, yes.

Commissioner Curtis: By what method should that mooted question be settled, was the point, I take it, suggested by Mr. Whitehead's question.

Mr. Dahl: Mr. Hughitt; in the state of Iowa during all these thirty years the ad valorem system has been in vogue there, have there been any objections, systematic attempts to raise the taxation, was there any trouble with the railroad company as to their not paying their just share, or paying too much,—anything of that kind? Or has it been easier there comparatively to other states where they have the license fee system, to get at, and satisfactory to the people and the railroads both?

Mr. Hughitt: We appear every year before a state body regarding the amount of taxes. It is as large a question with the railroad companies where the ad valorem system prevails as it is with the individual; and it is a large question all the while, every year as to the valuations.

Mr. Dahl: But not as to the rate of taxes, provided the amount when they are once fixed; the people are satisfied, are they not, as a rule, the people of the state?

Mr. Hughitt: A proper assessment, the value is always a question to be considered.

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Mr. Dahl: Yes, the value, but I mean the amount that the company pays in, is it generally conceded that they are paying just their share, not any too much or any too little, according to other property?

Mr. Hughitt: It is always a matter of controversy on both sides whether the railway is paying as much as it ought to, or whether the valuation is as high as it should be.

Mr. Dahl: Isn't it just as easy to get at an equitable valuation of the property as it is for the legislature to get at the percentage of tax to be charged to the company? Can you get at one easier than you can the other?

Mr. Hughitt: I would say it is quite as difficult one way as the other.

Mr. Dahl: You look at it in one way and perhaps the legislature may in another and pretty hard to find out who is right and who is wrong?

Mr. Hughitt: All taxes are on that basis and subject to that controversy, I believe. There is no difference about that. Everybody has the feeling that the tax he pays is too high.

Mr. Dahl: I guess that is quite general.

Senator Whitehead: There is another class of railroad taxes that will be affected by a change in the law, and that is the class which pays so much a mile. I think there are several such roads represented here this afternoon. I see Mr. James here and Mr. Fairchild. What would be the effect with reference to the rate of taxation under the operation of the ad valorem law. Mr. Upham, can you give us any help on that proposition?

Mr. Upham: I can say this, gentlemen, that while the railroads or class of railroads that I represent is very insignificant in comparison to the two big railroads, still the question of taxation, so far as it affects these small roads, is a very vital one and probably it is of more vital importance to us relatively, and I might also say to the state of Wisconsin, than is the question of the taxation of these larger roads. These large roads are dividend paying roads, they are personally able to pay the taxes, that is their just proportion, whereas the class of roads that I represent are not able to pay any taxes whatever, and we stand here claiming the right that we should not be taxed. What I mean by that is this: the policy of the state of Wisconsin for years back has been to encourage the building of railroads. There was a time when you invited the North-Western to come into Wisconsin and build a railroad and you invited the St. Paul to come into Wisconsin and build a railroad and you invited the Wisconsin Central to come here and build a railroad

and you offered them some inducement to come here in the way of giving them very low rates of taxation and exempting even their land grants from taxation. And why? So that you could build up the state of Wisconsin. You wanted the capitalists from outside of the state to come here, bring their money here and you promised them a low rate of taxation if they would come here and furnish the capital and build up the railroads, and they have done so and the results have been that your state has increased in value, your farming lands, your water powers, and all the other property has increased in value. And why? Because you invited these men to come here and invest their capital, and you promised them a low rate of taxation and you gave it to them, and you promised them that they should have a low rate of taxation until they became self-sustaining, and for that very purpose the license fee was adopted in this state. Now, if you adopt the ad valorem system you destroy the possibility of making a distinction between a new road that is not capable of paying any dividend, hardly paying the operating expenses, and another road that has existed for years and built up the country and that is capable of earning enough to pay taxes and pay dividends. If you adopt the ad valorem system you must provide in that ad valorem system in order to do justice to these new railroads and to invite other people to come into this state and invest their money in railroads, you must adopt some provision in that ad valorem system by which in assessing the value of the roads you should take into consideration the earning powers of that road. The cost of building a little road or a new road is no basis of its value. The only basis would be its earning power and a new road, as a rule, has no earning power, has no earning power as a rule until the country had been developed. If you were to tax the Wisconsin Western on the basis of ten thousand dollars a mile or twenty thousand dollars a mile—and we have portions of that road that has cost over forty thousand dollars a mile—if you were to assess it ad valorem upon that basis you would be doing us a great injustice.

Now, the history of this little road is like the history of many roads here in Wisconsin. The state of Wisconsin is not thoroughly developed as to railroads. You have two great railroads—three and possibly branches of others, but there are other portions of the state of Wisconsin that have no railroad and they want railroads and cannot get them unless you encourage the building of railroads. The Kickapoo road, which was the predecessor of the Wisconsin Western road, was started, I think, somewhere in '87. The valley had been denuded of its tim-

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ber, there was nothing left there but the bare possibility of development by settlements. The timber had all been cut and floated down the streams and the lands were not worth anything for farming, they were not settled, and owing to that condition of affairs certain capitalists conceived the idea of building a railroad up the Kickapoo valley.

Senator Whitehead: Mr. Upham, you wouldn't put any limitation in the ad valorem statute, would you? The commissioners should proceed along certain lines, or the state board of assessment, to find the value of your road, should they not?

Mr. Upham: Certainly I should, and I should put in other strong provisions, that if the railroad was not earning sufficient to pay its operating expenses, if the capitalists that were operating that road had to annually go down into their pockets in order to produce money to keep the road in operation, that they should be exempt from taxation.

Senator Whitehead: Would not that be evidence of the value? If you were not making any money?

Mr. Upham: It is not in the way I ordinarily talk with these assessors; they tell me a farmer that is unfortunate enough to have a farm he don't get anything from, don't make any money out of it, he has to pay the taxes on his farm. His valuation of his land is just the same as the farmer's who is more prudent, and more skillful and earns a competency; but a railroad is an entirely different proposition.

Senator Whitehead: You are taxed five dollars a mile, are you not, now?

Mr. Upham: Yes.

Senator Whitehead: That is a perfectly arbitrary basis?

Mr. Upham: It is an arbitrary tax.

Senator Whitehead: There is no science about it, no relation to any other part of our tax system logically.

Mr. Upham: No, sir, but that is a solemn promise on the part of the state of Wisconsin; it was the law at the time the road was built, and while the legislature has the authority to change that we have a perfect right to rely upon what Chief Justice Ryan said in the decision of the Potter law, that "It will never be presumed the legislature of the state of Wisconsin will violate any promise that it has made to foreign capitalists in coming into this state and bringing their money here, that it will tax them so as to be burdensome or to destroy their property;" and that is exactly the position these small roads occupy here today. The promoters of this road started it in about '87 to develop the Kickapoo valley. They put in a large sum of money, they lost every cent of it. The railroad was

reorganized and passed into the hands of others. It was bonded for some six hundred thousand dollars. The road would not pay the interest on the bonds and the bonds were foreclosed and a receiver was appointed in the foreclosure proceeding and this road was operated by the Western District of Wisconsin in the United States court for several years. And the judge of that court in order to keep the road running and pay the operating expenses issued receiver's certificates from time to time, and issued them up to the amount of four hundred thousand dollars, and then he could issue no more for the reason that nobody could be found to purchase the receiver's certificates, and the road was foreclosed under these receiver's certificates and passed to the hands of the present operators; and these present operators since they have had it three years have had to put their hands into their pockets to the amount of \$94,000 to keep it going; and for whom have they been keeping it going? For nobody under the sun of God but the people that live in that valley. The men who invested the money have not drawn out one cent.

Senator Whitehead: We cannot try this case now.

Mr. Upham: Excuse me; the farmers in that vicinity of that valley have had their lands more than doubled in value, and the owners of this road ask the state of Wisconsin to adhere to the promise that they held out when the road was built and when the money was invested there, that they would favor these small roads and favor the building of new ones.

Senator Whitehead: That is the answer that such roads as yours would make to a proposition to pass from the percentage to an ad valorem?

Mr. Upham: Yes, sir.

Senator Whitehead: That it would be violating the pledge of the state?

Mr. Upham: We would not object to an increase, say, from five dollars to ten dollars a mile; we are better able to pay ten dollars a mile now than we were five dollars a few years ago.

Senator Whitehead: But there would not be any scientific justification for that, would there?

Mr. Upham: No, sir, almost the same, the same scientific justification that there has always been in the policy of the state of Wisconsin to invite foreign capitalists to come into the state and build railroads. Now, there are plenty of places in the state of Wisconsin that need to have these little roads built, but they cannot be operated if they are to be taxed, and the state of Wisconsin by adopting such a policy would prevent the development of their own resources.

Mr. Dahl: Who do you represent?

Mr. Upham: The Wisconsin Western. Because the license system affords this method which has been the policy of the state right along, to encourage these little roads until they become self-sustaining, we think the system should be adhered to.

Senator Whitehead: Mr. Woodman, are you on a mileage basis or a percentage?

Mr. Woodman: Both systems.

Senator Whitehead: What would be the effect on property taxed as you are to change from the percentage to the ad valorem?

Mr. Woodman: I cannot foretell that. I do not see how any one can foretell what the effect would be. I am also interested somewhat in a little railroad up in Michigan where they have recently changed from the license system to the ad valorem. Under the license system our tax was \$3,000; under the last assessment just made at Lansing, the tax we pay is \$15,000. There is an increase under the license system of \$3,000 to the ad valorem of \$15,000, which we consider very unjust.

Mr. Hughitt: I would say in confirmation of that statement that the North-Western company built a branch road up in Michigan, about 35 miles, purely for the purpose of getting out the timber along the line; cost about \$6,000 a mile to build it, and it is valued by this tax commission under this Michigan law at \$28,000 a mile, and under that system of course we will have no pioneer roads. The taxes would be more than the net income from operating the property.

Senator Whitehead: The Michigan system would differ from the Iowa, would it not,—they take into account something more than the physical property?

Mr. Hughitt: We have not been able yet to ascertain what they did, and we hope to in time, when it has gone through the committee and usual machinery for the ascertainment of the facts that are hidden. It may be disclosed how they made such valuation, but I merely wanted to sustain this fact.

Mr. Dahl: I suppose you will contest whether you pay the taxes on that?

Mr. Hughitt: I would not like to say what we will do about it. That is of course unknown.

Judge Gilson: I would like to ask you whether that branch you speak of separately there, did they figure per mile or was it a part of the system?

Mr. Hughitt: They took the whole road and applied the

same rate. Took all the spurs and branches and wood roads and applied it under the system in Michigan, took the company's property rate.

Commissioner Curtis: \$28,000 per mile was the average valuation per mile placed by the state board upon the North-Western's mileage property in Michigan?

Mr. Hughitt: Yes, \$28,000 a mile.

Commissioner Curtis: That is the average valuation?

Mr. Hughitt: Yes, it is the valuation. The property of the Michigan Central, a trunk railroad, was valued at \$4,000 a mile less than ours, and ours is in this piece of Michigan that ought to belong to Wisconsin.

Commissioner Haugen: In valuing the property of Michigan did they value the entire property pro rata and then apportion it to Michigan on the mileage basis, or value only the part in Michigan?

Mr. Hughitt: That is what we have been unable to ascertain.

Commissioner Haugen: You do not know that?

Mr. Hughitt: We are seeking light on that subject.

Commissioner Haugen: Your property in Michigan is worth less per mile than the average that you say that your property would be?

Mr. Hughitt: We think so because a large part of the mileage is never used except in the season of navigation when the ore is moved.

Commissioner Haugen: The situation there is rather peculiar in that respect?

Mr. Hughitt: Yes, sir.

Senator Whitehead: How are these state boards in other states where you have the ad valorem system, ex-officio boards, or elected boards, or appointed by the governor?

Mr. Hughitt: I will ask Mr. Bowers, as I am not in voice to answer your question, Senator.

Mr. Bowers: I think Mr. Dudley is really more familiar with it than I, but what I know I shall try to say. In Iowa the assessment is made by a so-called executive council which consists of the governor, secretary of state, state auditor and treasurer. In South Dakota it is made by a similar board. In Illinois the assessment is made by an elective body, one member being elected from each congressional district in the state. As to that inquiry, Senator, I think it may be said generally that there is no definite practice as yet in the United States. Some times it is one way and some times the other.

Senator Whitehead: Have you observed or are you prepared

to express any opinion with reference to the merits of the elective as against the ex-officio or appointive boards?

Mr. Bowers: Well, there is a great deal to be considered in that connection, of course. I think probably the elective principle is the one that in the United States has the greatest approval as most in accordance with our institutions and possibly that system is brought into more immediate response to the popular demand and is in closer touch with the community. Possibly also that can not first be accepted. It works a little more steadily, less subject to fluctuation to administrative change. That is rather a difficult question, Senator, I have not any definite opinion about it.

Senator Whitehead: Of course that is a question we should have to settle if we are to change to the ad valorem system. It would be of very vital concern to the legislature to settle it right.

(Addressing Judge Gilson): Are there any other propositions relating to an ad valorem system as it might be established in this state that should be considered here this afternoon?

Judge Gilson: I don't think of anything now. The main questions in regard to the matter have been presented and discussed pretty thoroughly. I would ask Mr. Bowers if he thinks the elective system is good, whether or not if the legislature of Wisconsin should decide to create a board, whether it should add to, say the tax commission, if they wanted to confide it to them, say one or two state officers, to assist in making the valuation, who are responsible to the people?

Mr. Bowers: That is a question, Judge, that I have given no consideration that would make an expression of opinion fair or right. It is a difficult question. There are a great many sides to it. I think I have stated it with exact fairness in what I have said already. At any rate I have attempted to, and there is no settled usage today on this subject as far as I understand, Judge.

Senator Whitehead: I should be glad if some of the representatives of the smaller roads would offer suggestions—Mr. Baldwin and one or two others are here—Mr. James, you have problems that are perhaps different in some respects from the large roads.

Mr. James—Mr. Chairman, I do not know as I can say anything more than Mr. Upham has said for the benefit of the small roads, except one thing. I noticed up in Michigan some of their roads are under the snow. There are places in Wisconsin where at some times they are under water, and it interferes with the operating, and he has had no roads that were under water, because if he cannot operate that portion he can draw

on the balance of his road, so they can pay taxes while these others are tied up entirely. This reminds me of the days of 1875, at the time the Wisconsin Central was struggling to build that portion of the road to get into Ashland. A bill came up to exempt from taxation those lands so that they could borrow money and build the balance of that road. I remember that members of the legislature voted against the proposition on the general principle that the railroad should pay their share of taxation, that we should not make it burdensome upon the people up there, and the next day the members of the legislature were satisfied they did wrong and they re-considered that vote and exempted those lands from taxation, enabling the Wisconsin Central railroad to borrow money and open up that country to Ashland, since which time that country has improved. You must remember that in Wisconsin there is a large amount of territory that needs small roads. It is the small roads that will suffer by this unjust taxation. The St. Paul road and the North-Western road can take care of themselves. It is all the people that we have got to look after and I want to congratulate the members of this committee in the manner in which they have started out to get at the facts and conditions. I want them to ever bear in mind that these small roads must depend upon the main roads in order to live. That there are places in Wisconsin that have trebled in population in the last three years in consequence of the facilities that have been given them by the railroads. It is those roads that need aid and assistance. These other roads can get along as well as the people of Wisconsin. One is dependent upon the other. But these small roads can not live without some assistance, some outlet from the trunk lines. They have got to have some way to get out. They have got to have their rolling stock, they have got to have their spurs. Now Mr. Upham stated that he would be willing to pay ten dollars per mile. I understand the present system is five dollars a mile for roads earning less than fifteen hundred dollars—fifteen hundred dollars per mile, I think, is a five dollar tax and two per cent on its gross earnings—I think I am right,—up to three thousand dollars; then I think commences the four per cent.

Commissioner Haugen: No, it is graded now, it is graded at two thousand and twenty-five hundred?

Mr. James: It is graded along up, there are roads coming along up gradually, so they may have to pay two per cent. Another thing should be taken into consideration, in the valuation of that property, that railroading is hazardous and capital is timid. There are times, you remember, when railroads have serious accidents. That interferes with their earnings.

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It seems to me that one is a condition and another a theory. The railroad companies would rather operate and know the conditions under which they have got to operate, know just what they have got to put up of a fixed valuation so that capital will invest, that makes the stock good, and when they make money they give employment to their employees. I remember time and time and again when we have knocked at the halls of these doors here, to take care of the employees of the railroads. I have not heard anything of that for years. It seems to me the railroads are taking care of their men. Their men seem to be satisfied. They have their different organizations. If they have any grievances they go to the presidents of these roads and they settle it between themselves. Am I not correct? Now, then, there are two main issues, that is, labor and capital. You take care of those two elements and your industries go on, then you can take care of the producers and help him to the consumer. You can not do it without railroads; you must have them. These railroads that pass through our state into other states they can get along because they can curtail. You go back to the history of 1875 and you find the law was that well known as the Potter Law, was burdensome and the people wanted it repealed. The members that voted for that bill came back here and voted to repeal it, and since that time gradually the people have been going along side by side with the railroad until they are interested, you might say it is co-operative. The railroads cannot get along without the people nor the people cannot get along without the railroads. I know but very little about railroading, I know but very little about anything, but if there is anything I know any better than I do another, that is, any part of the business that I am engaged in that I am better posted than in any other it is in agriculture. You go up into the north where they cut the timber off, those lands are left ready for the agriculturist, but he cannot cultivate them without a railroad, cannot get in there without capital. Mr. Upham speaks of the Kickapoo road. They have made this year—I hate to give away the secrets but I might as well do it—they have earned \$62,007, and it cost them \$61,600 and some odd dollars. They have got a little over \$300 as net earning to declare a dividend on—no to apply on the interest of the receiver's certificates—and after they have applied that on the principal of the \$400,000, which amounts with the interest to over \$650,000, now you can see how much they will have to apply on the stock.

Mr. Upham: You have left out \$22,000; \$94,000 have been borrowed and expended.

Mr. James: Now, I have heard it has been claimed these small roads are coming up and making nice returns. I can-

not remember the time when they were not saying something against the railroads. The fact is that every dollar that I could charge up to betterment, I did. I was anxious to make a showing if possible. If I came to a bridge that I thought wasn't worth very much, I kicked it out of the way,—let it go down the Kickapoo, and put a new one in. Every old culvert I found, I put a new one in and charged it up to betterments. I told Mr. Upham to charge it up to betterment. I charged \$22,000 this last year for betterments. Now, I want to be fair; it is a question of whether I should charge up interest on this borrowed capital or not. I donated large amounts. There was a little over \$4,000, and I borrowed \$94,000. That is a personal debt that I have got to wipe out; have paid \$4,100 interest, but I will let that be if you say, take that out. The taxes amounted to five dollars per mile; that would make the net earnings about forty—well, about four thousand four hundred, and interest, the accrued interest, and the amount that we have already paid out makes, I would say, about \$750,000.

Mr. Upham: Yes, but you don't state the whole facts.

Mr. James: Well I can't state them all at once—too much of them.

Mr. Upham: You have got the figures mixed up. I have to furnish the money for this thing so I know. Mr. James has only produced to me about \$61,000, and I have had to send to him about \$84,000. Over \$22,000—I don't know how we can fix it up in the figures, I know I have paid out \$22,000 more than he has charged to me.

Mr. James: I will explain it. The state of Wisconsin ran that road a while under the receiver. I think the judge of the court had the control of the receiver. That receiver in six years drew a little over \$3,000 expenses traveling back and forth, and I guess that is all right, I don't think he had any too much, but I find nothing for salary for him. But I have been informed the court allowed him a salary and that should be charged up to that expense account, but here after Mr. Upham turns that road over to me, each month find there is about \$22,000 against the road that is due for labor, there is over \$16,000 for material furnished. Now that \$94,000 had to take the \$22,000 out of it to pay these men off, keep peace—and the balance of it went into betterment.

I want to give you just a few figures to show you what this road has done. It is brief, won't take over half a page. You want to get at the facts, I know you do, I am satisfied you do. You have started in the right direction to do it. Just keep right

along, make these fellows come here. Suppose they come half a dozen times, make them give you what information you want, that is all right, you should do it.

Now this road I take the fiscal reports of the railroad commissioner for ten years. In ten years they earned \$305,627.23. The operating expenses was \$377,086.44, leaving a deficit of \$71,459.21. Added to this should be salary for five years under the receiver if his salary was \$5,000 a year, and I am led to believe that was what it was, would be \$25,000, which would make a deficit of \$96,459.24. That is in ten years up to the last fiscal report, taken in June 30, 1902. That is why I say, Mr. Chairman, that in looking this thing over carefully, get all the facts and see what condition it is going to leave the majority of people that need the facilities.

If you create a tax that will make it burdensome upon the road the probabilities are that the building of railroads will stop. Who will pay the money—as Mr. Upham says this the fourth company that has undertaken to operate this road, and I know communities that are anxious and trying every way and are offering all kinds of inducements to have men come in and build railroads, but it don't look very favorable.

Senator Whitehead called upon W. W. Baldwin, assistant to the president of the C., B. & Q. R. R., who spoke as follows:

Mr. Baldwin: I represent the Burlington. I am quite hoarse, ill myself. Our interest is comparatively small in Wisconsin. We have 222 miles of a system of 8,500 miles. I think I may be able to give some information in response to an inquiry of the gentleman who sits over there (referring to Mr. Dahl) as to the actual results in those states where the ad valorem system now prevails and has prevailed for many years. The Burlington system is operated in eleven different states, and in all those states the ad valorem system prevails except in Wisconsin and Minnesota, and I have prepared statements of the amount of taxes that we pay per mile in each of these states for the year 1900. We pay the highest rate per mile in this state. I do not include in this the state of Illinois for special reasons which I will give.

In the state of Nebraska we pay \$190 per mile; in Iowa we pay \$170 per mile, in Kansas \$170, in Missouri \$150, in Colorado \$140, in South Dakota \$115, in Wyoming \$110, in Montana \$40, in Wisconsin for the same year we paid \$275 per mile. I think it is worth your while to ponder a little upon these figures.

Tax Commissioner Haugen: Do you take those figures from the interstate commerce commission's report?

Mr. Baldwin: No, sir. I take them from our own book.

Tax Commissioner Haugen: They do not correspond with the interstate commerce commissioner?

Mr. Baldwin: I think they do, yes sir. I have given it by states.

Tax Commissioner Haugen: O, yes, for your company.

Mr. Baldwin: Yes, sir.

Tax Commissioner Haugen: That is right.

Mr. Baldwin: Now, take our entire road in this state and in the state of Wisconsin these 222 miles in Wisconsin and about 109 in Illinois, we paid last year on that line in Illinois \$260 a mile on the ad valorem system. We paid in Wisconsin \$290 a mile. We paid over \$64,000 in taxes in Wisconsin last year. Now, it does not follow, of course, that because different rates per mile prevail in the different states that the roads are all of the same value, but now to illustrate the mixed problem that will be before you or before any tribunal, or ought to be, that will take up the question of what we call the ad valorem system, just make a comparison as you can and I will not take but a moment to do it, of the state of Missouri, for instance, with the state of Wisconsin.

Now in Wisconsin we have just a single track, there is no double-track railroad, we have no terminal facilities in Wisconsin. The road is built as you know along the river bank. In the state of Missouri we have a valuable system of railroads. We have terminals in the city of St. Louis which cost recently, between six and seven millions of dollars. We have three expensive bridges over the Missouri river; we have valuable terminals in Kansas City and St. Joseph, and the main line of the Hannibal road crosses the state of Missouri, its trunk line road fed from the tremendous trunk from the west. Now compare that property—you are talking about property and you are talking about establishing the ad valorem system—we pay today under the ad valorem system in the state of Missouri, we pay \$150 a mile and upon this single track railroad in the state of Wisconsin we are paying today \$290 a mile. Well, you say if that is so, I should think you would want to go to the ad valorem system, if the effect of that is going to be to reduce your taxes. It depends altogether, gentlemen, on how the ad valorem system is administered. It depends altogether upon that; if the ad valorem system is administered in Wisconsin upon the theory of the valuation of this line of railroad that we have in the state of Wisconsin laid down by your tax commission, if they as the tribunal are intrusted with the authority and they apply the principle of taking the stock and bond valuation of the C.,

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B. & Q. and bring that whole valuation into the state of Wisconsin on the mileage basis, these taxes that we are now paying \$275 a mile will be practically double. It depends upon how you administer it. I do not intend at this time—I hope possibly I may if you open the question to discussion so that we can present the full subject I would be pleased if you cared to hear me—I do not care to go into the matter now; I rather look upon it, if we knew we could have the ad valorem system applied in the spirit and in the manner in which it is applied in Illinois or in Iowa or Nebraska or Missouri and to other property in the state of Wisconsin, so far as I am concerned I would not—speaking for the Burlington road—have any objection to the ad valorem system; but I feel as though you are confronted with a condition in this state, you are confronted with a condition in this state. You must remember, gentlemen, this, that these ad valorem systems in Illinois have been in existence for thirty years; they are the outgrowth of experience, they have come up through the years so that they have been every year the subject of argument, the subject of examination. In Iowa we have had the system since '72, for thirty years,—Missouri about the same.

Now you go into it under certain pressure. Disguise it as you may, under the impulse of a certain agitation each year all have been referring to it and this thing is being agitated and advocated. Remember this, gentlemen, that the agitation will not cease if you adopt the ad valorem system. The agitation has not ceased in Iowa because we have the ad valorem system. The railroad spent a good part—a number of them a good part of last winter at Des Moines upon this very question and we have the ad valorem system. And strange to say, strange to say, the arguments that were advanced by those who were the men strongest in the agitation was to drop the ad valorem system and give us the Wisconsin system. Now that is the truth. Give us the Wisconsin system where we will be out of the political agitation, they said. If you have the ad valorem system you have got to have a tribunal. The railways are bound to be interested in whom that tribunal shall be. If it is elected they are going to be interested in that. If the governor is to be appointed they will also be interested to get the right kind of governor. What we want is something automatic. Something that is not the play of party polities and is not subject to continual agitation. Don't expect that you are going to get rid of agitation upon the subject of railroad taxation by adopting the ad valorem system.

Of course this appeals to us in a broader way than the mere Wisconsin way. What I want to see is this, that if that theory,

that idea of fixing the valuations in the first place—as I understand the Commission they do not propose that the Iowa plan or the Illinois plan or, applying the rate which prevails in each taxing district shall apply here, but propose a theoretical way which they have arrived at by, it seems to me, omitting a great deal of the property of Wisconsin, and they also propose or suggest substantially the arriving at the valuation in a theoretical way. Now then, of course if that should be done here, and then that principle should be extended to Iowa, and that principle be extended to Nebraska and Kansas, why the result would make a great deal of difference in the matter of our taxes. Now, I will only take your time for one moment longer to show you why, so far as the Burlington is concerned, the application of these theories, the trial of the experiment, going into it under these circumstances, going into it from the information which has been laid before you, that if you apply these principles it will be demonstrated that the railroads have been robbing the state of Wisconsin of a million dollars a year—if you apply these principles it will make a tremendous amount of difference to us in states like Kansas and Wyoming and Montana, that is, taking a valuation based upon the stock and bonds and carrying that value on a strictly mileage basis to those states regardless of the value of the property.

Now, Illinois doesn't do that. They say, "We have got the property there, and we will tax the property." But when we go to Kansas or to Wyoming or to Wisconsin the suggestion is that we will bring that property, through the stock and bond theory, here, and tax it on a basis of the value of the property as obtained per mile by the stock and bonds, and that would increase our valuation in Kansas from what it is now, a million, one hundred and twenty-four thousand dollars, to over sixteen million dollars and would increase our taxes from four thousand two hundred and fifty dollars to three hundred ninety-three thousand dollars, and in Wyoming the change would be from thirty-two-thousand to three hundred and sixty-six, and in Montana from seventeen thousand to about a hundred and ninety-two thousand dollars. The very same principle applies that substantially is used by the commission in reaching the conclusion that the railroads in Wisconsin are not paying their fair share of taxes, because that is all worked out in their report. The rate is worked out and the valuation is worked out, and taking this as the condition and the probable outcome of this agitation I simply wanted to call your attention to the fact of the results as they may appear upon the property of the Burlington road in other states.

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We are now paying, I do not know whether all of you appreciate how much, what percentage of their net earnings the railroads are paying in taxes in Wisconsin. I think they are paying about eleven and one-half per cent in taxes of their net earnings; eleven and a half per cent on all their net earnings in the state are being paid in taxes. We pay out of the C., B. & Q. this year one million seven hundred thousand dollars taxes on between sixteen and seventeen millions of net earnings, or pay nearly ten per cent taxes now all over the country.

Just pardon me being impressed with the gravity of the situation that this principle shall find foothold by law in Wisconsin and be carried into these other states, and what do you suppose the railroads are going to be obliged to pay in the matter of taxes. There is no reason why that should not be carried into Kansas and Wyoming and to Nebraska and elsewhere the same as in Wisconsin, and that influences you because if you diminish our revenues it diminishes our opportunity to make improvements and to do other things we ought to do in the state of Wisconsin. But I did not intend to take up so much of your time.

Senator Whitehead: Is there anything else anybody else wants to ask about?

I wish to express on behalf of the committee our sincere appreciation of the trouble you have taken, gentlemen, to come here this afternoon, and if there is nothing farther we will consider this conference closed.



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